

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES DAVON RICHARDSON,

Plaintiff,

v.

Civil Action No.
9:09-cv-868 (GLS/DEP)

DEBORAH G. SCHULT¹, Ph.D. Warden,
in her Official/Individual Capacity; and
MR. POIRER, Officer, in his Official/
Individual Capacity,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

JAMES DAVON RICHARDSON
Plaintiff *Pro Se*
42783-037
FCI Fairton
PO Box 420
Fairton, New Jersey 08320

FOR THE DEFENDANTS:

HON. RICHARD S. HARTUNIAN
United States Attorney
Northern District of New York
P.O. Box 7198
100 S. Clinton Street
Syracuse, New York 13261-7198

CHARLES E. ROBERTS, ESQ.
Assistant U.S. Attorney

GARY L. SHARPE,

¹ In plaintiff's complaint Warden Schult's name is misspelled as "Schultz." The court's records in the case have been amended to reflect the correct spelling of that defendant's name.

DISTRICT COURT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David E. Peebles, duly filed January 19, 2011. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge David E. Peebles filed January 19, 2011 (Dkt. No. 30) is ACCEPTED in its entirety for the reasons state therein; and it is further

ORDERED that defendants' motion for dismissal and/or for summary judgment (Dkt. No. 20) is GRANTED; and it is further

ORDERED that plaintiff's claims against defendant Schult are DISMISSED for failure to state a claim upon which relief may be granted; and it is further

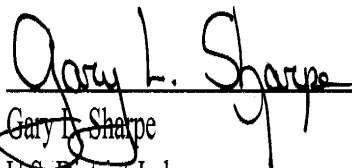
ORDERED that summary judgment is entered DISMISSING plaintiff's claims against defendant Poirer as a matter of law, both with leave to

replead; and it is further

ORDERED, that the Clerk of the court serve a copy of this order upon the parties to this action.

IT IS SO ORDERED.

Dated: March 2, 2011
Albany, New York



Gary L. Sharpe
U.S. District Judge